

PEARCE SUBSTITUTE FLOOR AMENDMENT  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2745

I move the following SUBSTITUTE amendment to the GOVERNMENT Committee Amendment  
to

HOUSE BILL 2745 (Reference to printed bill)

1 Page 1, line 4, after "Taking" insert "or knowingly accepting"

2 Line 5, strike ": definition"

3 Strike lines 15 through 19, insert:

4 "B. A PERSON COMMITS KNOWINGLY ACCEPTING THE IDENTITY OF ANOTHER  
5 PERSON IF THE PERSON, IN HIRING AN EMPLOYEE, KNOWINGLY DOES BOTH OF THE  
6 FOLLOWING:

7 1. ACCEPTS ANY PERSONAL IDENTIFYING INFORMATION OF ANOTHER PERSON FROM  
8 AN INDIVIDUAL AND KNOWS THAT THE INDIVIDUAL IS NOT THE ACTUAL PERSON  
9 IDENTIFIED BY THAT INFORMATION.

10 2. USES THAT IDENTITY INFORMATION FOR THE PURPOSE OF DETERMINING  
11 WHETHER THE INDIVIDUAL WHO PRESENTED THAT IDENTITY INFORMATION HAS THE LEGAL  
12 RIGHT OR AUTHORIZATION UNDER FEDERAL LAW TO WORK IN THE UNITED STATES AS  
13 DESCRIBED AND DETERMINED UNDER THE PROCESSES AND PROCEDURES UNDER 8 UNITED  
14 STATES CODE SECTION 1324a."

15 Line 21, strike the first "the" insert "AN"; after "offense" insert "UNDER THIS  
16 SECTION"; strike the second "the" insert "AN"

17 Line 22, after "offense" insert "UNDER THIS SECTION"; after "taken" insert "OR  
18 ACCEPTED"

19 Line 36, after the period strike remainder of line

20 Strike lines 37 through 41

1 Page 2, strike lines 1, 2 and 3

2 Between lines 24 and 25, insert:

3 "2. "EMPLOY" MEANS HIRING AN EMPLOYEE AFTER DECEMBER 31, 2007."

4 Renumber to conform

5 Line 31, strike "~~that~~ WHETHER OR NOT THE INDIVIDUAL OR"

6 Line 32, strike "ORGANIZATION" insert "that"; strike the comma

7 Page 3, line 5, after "WORKS" insert "OR MAY WORK"

8 Between lines 30 and 31, insert:

9 "10. "SOCIAL SECURITY NUMBER VERIFICATION SERVICE" MEANS THE PROGRAM  
10 ADMINISTERED BY THE SOCIAL SECURITY ADMINISTRATION OR ANY OF ITS SUCCESSOR  
11 PROGRAMS."

12 Renumber to conform

13 Strike lines 34 through 45

14 Strike pages 4 through 9, insert:

15 "Sec. 4. Section 23-212, Arizona Revised Statutes, is amended to read:

16 23-212. Knowingly employing unauthorized aliens; prohibition;  
17 false and frivolous complaints; violation;  
18 classification; license suspension and revocation;  
19 affirmative defense

20 A. An employer shall not ~~intentionally employ an unauthorized alien or~~  
21 knowingly employ an unauthorized alien. IF, IN THE CASE WHEN AN EMPLOYER  
22 USES A CONTRACT, SUBCONTRACT OR OTHER INDEPENDENT CONTRACTOR AGREEMENT TO  
23 OBTAIN THE LABOR OF AN ALIEN IN THIS STATE, THE EMPLOYER KNOWINGLY CONTRACTS  
24 WITH AN UNAUTHORIZED ALIEN OR WITH A PERSON WHO EMPLOYS OR CONTRACTS WITH AN  
25 UNAUTHORIZED ALIEN TO PERFORM THE LABOR, THE EMPLOYER VIOLATES THIS  
26 SUBSECTION.

27 B. THE ATTORNEY GENERAL SHALL PRESCRIBE A COMPLAINT FORM FOR A PERSON  
28 TO ALLEGE A VIOLATION OF SUBSECTION A OF THIS SECTION. THE COMPLAINANT SHALL  
29 NOT BE REQUIRED TO LIST THE COMPLAINANT'S SOCIAL SECURITY NUMBER ON THE  
30 COMPLAINT FORM OR TO HAVE THE COMPLAINT FORM NOTARIZED. On receipt of a  
31 complaint ON A PRESCRIBED COMPLAINT FORM that an employer allegedly  
32 ~~intentionally employs an unauthorized alien or~~ knowingly employs an

1 unauthorized alien, the attorney general or county attorney shall investigate  
2 whether the employer has violated subsection A OF THIS SECTION. IF A  
3 COMPLAINT IS RECEIVED BUT IS NOT SUBMITTED ON A PRESCRIBED COMPLAINT FORM,  
4 THE ATTORNEY GENERAL OR COUNTY ATTORNEY MAY INVESTIGATE WHETHER THE EMPLOYER  
5 HAS VIOLATED SUBSECTION A OF THIS SECTION. THIS SUBSECTION SHALL NOT BE  
6 CONSTRUED TO PROHIBIT THE FILING OF ANONYMOUS COMPLAINTS THAT ARE NOT  
7 SUBMITTED ON A PRESCRIBED COMPLAINT FORM. THE ATTORNEY GENERAL OR COUNTY  
8 ATTORNEY SHALL NOT INVESTIGATE COMPLAINTS THAT ARE BASED SOLELY ON RACE,  
9 COLOR OR NATIONAL ORIGIN. A COMPLAINT THAT IS SUBMITTED TO A COUNTY ATTORNEY  
10 SHALL BE SUBMITTED TO THE COUNTY ATTORNEY IN THE COUNTY IN WHICH THE ALLEGED  
11 UNAUTHORIZED ALIEN IS OR WAS EMPLOYED BY THE EMPLOYER. THE COUNTY SHERIFF OR  
12 ANY OTHER LOCAL LAW ENFORCEMENT AGENCY MAY ASSIST IN INVESTIGATING A  
13 COMPLAINT. When investigating a complaint, the attorney general or county  
14 attorney shall verify the work authorization of the alleged unauthorized  
15 alien with the federal government pursuant to 8 United States Code section  
16 1373(c). A state, county or local official shall not attempt to  
17 independently make a final determination on whether an alien is authorized to  
18 work in the United States. An alien's immigration status or work  
19 authorization status shall be verified with the federal government pursuant  
20 to 8 United States Code section 1373(c). A person who knowingly files a  
21 false and frivolous complaint under this subsection is guilty of a class 3  
22 misdemeanor.

23 C. If, after an investigation, the attorney general or county attorney  
24 determines that the complaint is not FALSE AND frivolous:

25 1. The attorney general or county attorney shall notify the United  
26 States immigration and customs enforcement of the unauthorized alien.

27 2. The attorney general or county attorney shall notify the local law  
28 enforcement agency of the unauthorized alien.

29 3. The attorney general shall notify the appropriate county attorney  
30 to bring an action pursuant to subsection D OF THIS SECTION if the complaint  
31 was originally filed with the attorney general.

1           D. An action for a violation of subsection A OF THIS SECTION shall be  
2 brought against the employer by the county attorney in the county where the  
3 unauthorized alien employee is OR WAS employed BY THE EMPLOYER. The county  
4 attorney shall not bring an action against any employer for any violation of  
5 subsection A OF THIS SECTION that occurs before January 1, 2008. A second  
6 violation of this section shall be based only on an unauthorized alien who is  
7 OR WAS employed by the employer after an action has been brought for a  
8 violation of subsection A OF THIS SECTION OR SECTION 23-212.01, SUBSECTION A.

9           E. For any action in superior court under this section, the court  
10 shall expedite the action, including assigning the hearing at the earliest  
11 practicable date.

12           F. On a finding of a violation of subsection A OF THIS SECTION:

13           1. For a first violation ~~during a three year period that is a knowing~~  
14 ~~violation of subsection A~~, AS DESCRIBED IN PARAGRAPH 3 OF THIS SUBSECTION,  
15 the court:

16           (a) Shall order the employer to terminate the employment of all  
17 unauthorized aliens.

18           (b) Shall order the employer to be subject to a three year  
19 probationary period FOR THE BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN  
20 PERFORMED WORK. During the probationary period the employer shall file  
21 quarterly reports IN THE FORM PROVIDED IN SECTION 23-722.01 with the county  
22 attorney of each new employee who is hired by the employer at the ~~specific~~  
23 BUSINESS location where the unauthorized alien performed work.

24           (c) Shall order the employer to file a signed sworn affidavit with the  
25 county attorney within three business days after the order is issued. The  
26 affidavit shall state that the employer has terminated the employment of all  
27 unauthorized aliens IN THIS STATE and that the employer will not  
28 intentionally or knowingly employ an unauthorized alien IN THIS STATE. The  
29 court shall order the appropriate agencies to suspend all licenses subject to  
30 this subdivision that are held by the employer if the employer fails to file  
31 a signed sworn affidavit with the county attorney within three business days  
32 after the order is issued. All licenses that are suspended under this

subdivision shall remain suspended until the employer files a signed sworn affidavit with the county attorney. Notwithstanding any other law, on filing of the affidavit the suspended licenses shall be reinstated immediately by the appropriate agencies. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer ~~and that are necessary to operate the employer's business at the employer's~~ SPECIFIC TO THE business location where the unauthorized alien performed work. If ~~a license is not necessary to operate the employer's business at~~ THE EMPLOYER DOES NOT HOLD A LICENSE SPECIFIC TO the ~~specific~~ BUSINESS location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G OF THIS SECTION.

(d) May order the appropriate agencies to suspend all licenses described in subdivision (c) of this paragraph that are held by the employer for not to exceed ten business days. The court shall base its decision to suspend under this subdivision on any evidence or information submitted to it during the action for a violation of this subsection and shall consider the following factors, if relevant:

- (i) The number of unauthorized aliens employed by the employer.
- (ii) Any prior misconduct by the employer.
- (iii) The degree of harm resulting from the violation.
- (iv) Whether the employer made good faith efforts to comply with any applicable requirements.
- (v) The duration of the violation.

1           (vi) The role of the directors, officers or principals of the employer  
2 in the violation.

3           (vii) Any other factors the court deems appropriate.

4           ~~2. For a first violation during a five year period that is an~~  
5 ~~intentional violation of subsection A, the court shall:~~

6           ~~(a) Order the employer to terminate the employment of all unauthorized~~  
7 ~~aliens.~~

8           ~~(b) Order the employer to be subject to a five year probationary~~  
9 ~~period. During the probationary period the employer shall file quarterly~~  
10 ~~reports with the county attorney of each new employee who is hired by the~~  
11 ~~employer at the specific location where the unauthorized alien performed~~  
12 ~~work.~~

13           ~~(c) Order the appropriate agencies to suspend all licenses, described~~  
14 ~~in subdivision (d) of this paragraph that are held by the employer for a~~  
15 ~~minimum of ten days. The court shall base its decision on the length of the~~  
16 ~~suspension under this subdivision on any evidence or information submitted to~~  
17 ~~it during the action for a violation of this subsection and shall consider~~  
18 ~~the following factors, if relevant:~~

19           ~~(i) The number of unauthorized aliens employed by the employer.~~

20           ~~(ii) Any prior misconduct by the employer.~~

21           ~~(iii) The degree of harm resulting from the violation.~~

22           ~~(iv) Whether the employer made good faith efforts to comply with any~~  
23 ~~applicable requirements.~~

24           ~~(v) The duration of the violation.~~

25           ~~(vi) The role of the directors, officers or principals of the employer~~  
26 ~~in the violation.~~

27           ~~(vii) Any other factors the court deems appropriate.~~

28           ~~(d) Order the employer to file a signed sworn affidavit with the~~  
29 ~~county attorney. The affidavit shall state that the employer has terminated~~  
30 ~~the employment of all unauthorized aliens and that the employer will not~~  
31 ~~intentionally or knowingly employ an unauthorized alien. All licenses that~~  
32 ~~are suspended under this subdivision shall remain suspended until the~~

~~employer files a signed sworn affidavit with the county attorney. For the purposes of this subdivision, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer and that are necessary to operate the employer's business at the employer's business location where the unauthorized alien performed work. If a license is not necessary to operate the employer's business at the specific location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the licenses that are subject to suspension under this subdivision are all licenses that are held by the employer at the employer's primary place of business. On receipt of the court's order and notwithstanding any other law, the appropriate agencies shall suspend the licenses according to the court's order. The court shall send a copy of the court's order to the attorney general and the attorney general shall maintain the copy pursuant to subsection G.~~

~~3.~~ 2. For a second violation ~~of subsection A during the period of probation,~~ AS DESCRIBED IN PARAGRAPH 3 OF THIS SUBSECTION, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer ~~and that are necessary to operate the employer's business at the employer's~~ SPECIFIC TO THE business location where the unauthorized alien performed work. If ~~a license is not necessary to operate the employer's business at~~ THE EMPLOYER DOES NOT HOLD A LICENSE SPECIFIC TO the ~~specific~~ BUSINESS location where the unauthorized alien performed work, but a license is necessary to operate the employer's business in general, the court shall order the appropriate agencies to permanently revoke all licenses that are held by the employer at the employer's primary place of business. On receipt of the order and notwithstanding any other law, the appropriate agencies shall immediately revoke the licenses.

3. THE VIOLATION SHALL BE CONSIDERED:

(a) A FIRST VIOLATION BY AN EMPLOYER AT A BUSINESS LOCATION IF THE VIOLATION DID NOT OCCUR DURING A PROBATIONARY PERIOD ORDERED BY THE COURT UNDER THIS SUBSECTION OR SECTION 23-212.01, SUBSECTION F FOR THAT EMPLOYER'S BUSINESS LOCATION.

1 (b) A SECOND VIOLATION BY AN EMPLOYER AT A BUSINESS LOCATION IF THE  
2 VIOLATION OCCURRED DURING A PROBATIONARY PERIOD ORDERED BY THE COURT UNDER  
3 THIS SUBSECTION OR SECTION 23-212.01, SUBSECTION F FOR THAT EMPLOYER'S  
4 BUSINESS LOCATION.

5 G. The attorney general shall maintain copies of court orders that are  
6 received pursuant to subsection F OF THIS SECTION and shall maintain a  
7 database of the employers ~~who~~ AND BUSINESS LOCATIONS THAT have a first  
8 violation of subsection A OF THIS SECTION and make the court orders available  
9 on the attorney general's website.

10 H. On determining whether an employee is an unauthorized alien, the  
11 court shall consider only the federal government's determination pursuant to  
12 8 United States Code section 1373(c). The federal government's determination  
13 creates a rebuttable presumption of the employee's lawful status. The court  
14 may take judicial notice of the federal government's determination and may  
15 request the federal government to provide automated or testimonial  
16 verification pursuant to 8 United States Code section 1373(c).

17 I. For the purposes of this section, proof of verifying the employment  
18 authorization of an employee through the ~~basic-pilot~~ E-VERIFY program creates  
19 a rebuttable presumption that an employer did not ~~intentionally employ an~~  
20 ~~unauthorized alien or~~ knowingly employ an unauthorized alien.

21 J. For the purposes of this section, an employer ~~who~~ THAT establishes  
22 that it has complied in good faith with the requirements of 8 United States  
23 Code section ~~1324b~~ 1324a(b) establishes an affirmative defense that the  
24 employer did not ~~intentionally or~~ knowingly employ an unauthorized alien. AN  
25 EMPLOYER IS CONSIDERED TO HAVE COMPLIED WITH THE REQUIREMENTS OF 8 UNITED  
26 STATES CODE SECTION 1324a(b), NOTWITHSTANDING AN ISOLATED, SPORADIC OR  
27 ACCIDENTAL TECHNICAL OR PROCEDURAL FAILURE TO MEET THE REQUIREMENTS, IF THERE  
28 IS A GOOD FAITH ATTEMPT TO COMPLY WITH THE REQUIREMENTS.



1           Sec. 5. Title 23, chapter 2, article 2, Arizona Revised Statutes, is  
2 amended by adding section 23-212.01, to read:

3           23-212.01. Intentionally employing unauthorized aliens;  
4                     prohibition; false and frivolous complaints;  
5                     violation; classification; license suspension and  
6                     revocation; affirmative defense

7           A. AN EMPLOYER SHALL NOT INTENTIONALLY EMPLOY AN UNAUTHORIZED ALIEN.  
8 IF, IN THE CASE WHEN AN EMPLOYER USES A CONTRACT, SUBCONTRACT OR OTHER  
9 INDEPENDENT CONTRACTOR AGREEMENT TO OBTAIN THE LABOR OF AN ALIEN IN THIS  
10 STATE, THE EMPLOYER INTENTIONALLY CONTRACTS WITH AN UNAUTHORIZED ALIEN OR  
11 WITH A PERSON WHO EMPLOYS OR CONTRACTS WITH AN UNAUTHORIZED ALIEN TO PERFORM  
12 THE LABOR, THE EMPLOYER VIOLATES THIS SUBSECTION.

13           B. THE ATTORNEY GENERAL SHALL PRESCRIBE A COMPLAINT FORM FOR A PERSON  
14 TO ALLEGE A VIOLATION OF SUBSECTION A OF THIS SECTION. THE COMPLAINANT SHALL  
15 NOT BE REQUIRED TO LIST THE COMPLAINANT'S SOCIAL SECURITY NUMBER ON THE  
16 COMPLAINT FORM OR TO HAVE THE COMPLAINT FORM NOTARIZED. ON RECEIPT OF A  
17 COMPLAINT ON A PRESCRIBED COMPLAINT FORM THAT AN EMPLOYER ALLEGEDLY  
18 INTENTIONALLY EMPLOYS AN UNAUTHORIZED ALIEN, THE ATTORNEY GENERAL OR COUNTY  
19 ATTORNEY SHALL INVESTIGATE WHETHER THE EMPLOYER HAS VIOLATED SUBSECTION A OF  
20 THIS SECTION. IF A COMPLAINT IS RECEIVED BUT IS NOT SUBMITTED ON A  
21 PRESCRIBED COMPLAINT FORM, THE ATTORNEY GENERAL OR COUNTY ATTORNEY MAY  
22 INVESTIGATE WHETHER THE EMPLOYER HAS VIOLATED SUBSECTION A OF THIS SECTION.  
23 THIS SUBSECTION SHALL NOT BE CONSTRUED TO PROHIBIT THE FILING OF ANONYMOUS  
24 COMPLAINTS THAT ARE NOT SUBMITTED ON A PRESCRIBED COMPLAINT FORM. THE  
25 ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOT INVESTIGATE COMPLAINTS THAT ARE  
26 BASED SOLELY ON RACE, COLOR OR NATIONAL ORIGIN. A COMPLAINT THAT IS  
27 SUBMITTED TO A COUNTY ATTORNEY SHALL BE SUBMITTED TO THE COUNTY ATTORNEY IN  
28 THE COUNTY IN WHICH THE ALLEGED UNAUTHORIZED ALIEN IS OR WAS EMPLOYED BY THE  
29 EMPLOYER. THE COUNTY SHERIFF OR ANY OTHER LOCAL LAW ENFORCEMENT AGENCY MAY  
30 ASSIST IN INVESTIGATING A COMPLAINT. WHEN INVESTIGATING A COMPLAINT, THE  
31 ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL VERIFY THE WORK AUTHORIZATION OF  
32 THE ALLEGED UNAUTHORIZED ALIEN WITH THE FEDERAL GOVERNMENT PURSUANT TO

1 8 UNITED STATES CODE SECTION 1373(c). A STATE, COUNTY OR LOCAL OFFICIAL  
2 SHALL NOT ATTEMPT TO INDEPENDENTLY MAKE A FINAL DETERMINATION ON WHETHER AN  
3 ALIEN IS AUTHORIZED TO WORK IN THE UNITED STATES. AN ALIEN'S IMMIGRATION  
4 STATUS OR WORK AUTHORIZATION STATUS SHALL BE VERIFIED WITH THE FEDERAL  
5 GOVERNMENT PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c). A PERSON WHO  
6 KNOWINGLY FILES A FALSE AND FRIVOLOUS COMPLAINT UNDER THIS SUBSECTION IS  
7 GUILTY OF A CLASS 3 MISDEMEANOR.

8 C. IF, AFTER AN INVESTIGATION, THE ATTORNEY GENERAL OR COUNTY ATTORNEY  
9 DETERMINES THAT THE COMPLAINT IS NOT FALSE AND FRIVOLOUS:

10 1. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOTIFY THE UNITED  
11 STATES IMMIGRATION AND CUSTOMS ENFORCEMENT OF THE UNAUTHORIZED ALIEN.

12 2. THE ATTORNEY GENERAL OR COUNTY ATTORNEY SHALL NOTIFY THE LOCAL LAW  
13 ENFORCEMENT AGENCY OF THE UNAUTHORIZED ALIEN.

14 3. THE ATTORNEY GENERAL SHALL NOTIFY THE APPROPRIATE COUNTY ATTORNEY  
15 TO BRING AN ACTION PURSUANT TO SUBSECTION D OF THIS SECTION IF THE COMPLAINT  
16 WAS ORIGINALLY FILED WITH THE ATTORNEY GENERAL.

17 D. AN ACTION FOR A VIOLATION OF SUBSECTION A OF THIS SECTION SHALL BE  
18 BROUGHT AGAINST THE EMPLOYER BY THE COUNTY ATTORNEY IN THE COUNTY WHERE THE  
19 UNAUTHORIZED ALIEN EMPLOYEE IS OR WAS EMPLOYED BY THE EMPLOYER. THE COUNTY  
20 ATTORNEY SHALL NOT BRING AN ACTION AGAINST ANY EMPLOYER FOR ANY VIOLATION OF  
21 SUBSECTION A OF THIS SECTION THAT OCCURS BEFORE JANUARY 1, 2008. A SECOND  
22 VIOLATION OF THIS SECTION SHALL BE BASED ONLY ON AN UNAUTHORIZED ALIEN WHO IS  
23 OR WAS EMPLOYED BY THE EMPLOYER AFTER AN ACTION HAS BEEN BROUGHT FOR A  
24 VIOLATION OF SUBSECTION A OF THIS SECTION OR SECTION 23-212, SUBSECTION A.

25 E. FOR ANY ACTION IN SUPERIOR COURT UNDER THIS SECTION, THE COURT  
26 SHALL EXPEDITE THE ACTION, INCLUDING ASSIGNING THE HEARING AT THE EARLIEST  
27 PRACTICABLE DATE.

28 F. ON A FINDING OF A VIOLATION OF SUBSECTION A OF THIS SECTION:

29 1. FOR A FIRST VIOLATION, AS DESCRIBED IN PARAGRAPH 3 OF THIS  
30 SUBSECTION, THE COURT SHALL:

31 (a) ORDER THE EMPLOYER TO TERMINATE THE EMPLOYMENT OF ALL UNAUTHORIZED  
32 ALIENS.

1           (b) ORDER THE EMPLOYER TO BE SUBJECT TO A FIVE YEAR PROBATIONARY  
2 PERIOD FOR THE BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK.  
3 DURING THE PROBATIONARY PERIOD THE EMPLOYER SHALL FILE QUARTERLY REPORTS IN  
4 THE FORM PROVIDED IN SECTION 23-722.01 WITH THE COUNTY ATTORNEY OF EACH NEW  
5 EMPLOYEE WHO IS HIRED BY THE EMPLOYER AT THE BUSINESS LOCATION WHERE THE  
6 UNAUTHORIZED ALIEN PERFORMED WORK.

7           (c) ORDER THE APPROPRIATE AGENCIES TO SUSPEND ALL LICENSES DESCRIBED  
8 IN SUBDIVISION (d) OF THIS PARAGRAPH THAT ARE HELD BY THE EMPLOYER FOR A  
9 MINIMUM OF TEN DAYS. THE COURT SHALL BASE ITS DECISION ON THE LENGTH OF THE  
10 SUSPENSION UNDER THIS SUBDIVISION ON ANY EVIDENCE OR INFORMATION SUBMITTED TO  
11 IT DURING THE ACTION FOR A VIOLATION OF THIS SUBSECTION AND SHALL CONSIDER  
12 THE FOLLOWING FACTORS, IF RELEVANT:

13           (i) THE NUMBER OF UNAUTHORIZED ALIENS EMPLOYED BY THE EMPLOYER.

14           (ii) ANY PRIOR MISCONDUCT BY THE EMPLOYER.

15           (iii) THE DEGREE OF HARM RESULTING FROM THE VIOLATION.

16           (iv) WHETHER THE EMPLOYER MADE GOOD FAITH EFFORTS TO COMPLY WITH ANY  
17 APPLICABLE REQUIREMENTS.

18           (v) THE DURATION OF THE VIOLATION.

19           (vi) THE ROLE OF THE DIRECTORS, OFFICERS OR PRINCIPALS OF THE EMPLOYER  
20 IN THE VIOLATION.

21           (vii) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.

22           (d) ORDER THE EMPLOYER TO FILE A SIGNED SWORN AFFIDAVIT WITH THE  
23 COUNTY ATTORNEY. THE AFFIDAVIT SHALL STATE THAT THE EMPLOYER HAS TERMINATED  
24 THE EMPLOYMENT OF ALL UNAUTHORIZED ALIENS IN THIS STATE AND THAT THE EMPLOYER  
25 WILL NOT INTENTIONALLY OR KNOWINGLY EMPLOY AN UNAUTHORIZED ALIEN IN THIS  
26 STATE. THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO SUSPEND ALL  
27 LICENSES SUBJECT TO THIS SUBDIVISION THAT ARE HELD BY THE EMPLOYER IF THE  
28 EMPLOYER FAILS TO FILE A SIGNED SWORN AFFIDAVIT WITH THE COUNTY ATTORNEY  
29 WITHIN THREE BUSINESS DAYS AFTER THE ORDER IS ISSUED. ALL LICENSES THAT ARE  
30 SUSPENDED UNDER THIS SUBDIVISION FOR FAILING TO FILE A SIGNED SWORN AFFIDAVIT  
31 SHALL REMAIN SUSPENDED UNTIL THE EMPLOYER FILES A SIGNED SWORN AFFIDAVIT WITH  
32 THE COUNTY ATTORNEY. FOR THE PURPOSES OF THIS SUBDIVISION, THE LICENSES THAT

1 ARE SUBJECT TO SUSPENSION UNDER THIS SUBDIVISION ARE ALL LICENSES THAT ARE  
2 HELD BY THE EMPLOYER SPECIFIC TO THE BUSINESS LOCATION WHERE THE UNAUTHORIZED  
3 ALIEN PERFORMED WORK. IF THE EMPLOYER DOES NOT HOLD A LICENSE SPECIFIC TO  
4 THE BUSINESS LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK, BUT A  
5 LICENSE IS NECESSARY TO OPERATE THE EMPLOYER'S BUSINESS IN GENERAL, THE  
6 LICENSES THAT ARE SUBJECT TO SUSPENSION UNDER THIS SUBDIVISION ARE ALL  
7 LICENSES THAT ARE HELD BY THE EMPLOYER AT THE EMPLOYER'S PRIMARY PLACE OF  
8 BUSINESS. ON RECEIPT OF THE COURT'S ORDER AND NOTWITHSTANDING ANY OTHER LAW,  
9 THE APPROPRIATE AGENCIES SHALL SUSPEND THE LICENSES ACCORDING TO THE COURT'S  
10 ORDER. THE COURT SHALL SEND A COPY OF THE COURT'S ORDER TO THE ATTORNEY  
11 GENERAL AND THE ATTORNEY GENERAL SHALL MAINTAIN THE COPY PURSUANT TO  
12 SUBSECTION G OF THIS SECTION.

13 2. FOR A SECOND VIOLATION, AS DESCRIBED IN PARAGRAPH 3 OF THIS  
14 SUBSECTION, THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO PERMANENTLY  
15 REVOKE ALL LICENSES THAT ARE HELD BY THE EMPLOYER SPECIFIC TO THE BUSINESS  
16 LOCATION WHERE THE UNAUTHORIZED ALIEN PERFORMED WORK. IF THE EMPLOYER DOES  
17 NOT HOLD A LICENSE SPECIFIC TO THE BUSINESS LOCATION WHERE THE UNAUTHORIZED  
18 ALIEN PERFORMED WORK, BUT A LICENSE IS NECESSARY TO OPERATE THE EMPLOYER'S  
19 BUSINESS IN GENERAL, THE COURT SHALL ORDER THE APPROPRIATE AGENCIES TO  
20 PERMANENTLY REVOKE ALL LICENSES THAT ARE HELD BY THE EMPLOYER AT THE  
21 EMPLOYER'S PRIMARY PLACE OF BUSINESS. ON RECEIPT OF THE ORDER AND  
22 NOTWITHSTANDING ANY OTHER LAW, THE APPROPRIATE AGENCIES SHALL IMMEDIATELY  
23 REVOKE THE LICENSES.

24 3. THE VIOLATION SHALL BE CONSIDERED:

25 (a) A FIRST VIOLATION BY AN EMPLOYER AT A BUSINESS LOCATION IF THE  
26 VIOLATION DID NOT OCCUR DURING A PROBATIONARY PERIOD ORDERED BY THE COURT  
27 UNDER THIS SUBSECTION OR SECTION 23-212, SUBSECTION F FOR THAT EMPLOYER'S  
28 BUSINESS LOCATION.

29 (b) A SECOND VIOLATION BY AN EMPLOYER AT A BUSINESS LOCATION IF THE  
30 VIOLATION OCCURRED DURING A PROBATIONARY PERIOD ORDERED BY THE COURT UNDER  
31 THIS SUBSECTION OR SECTION 23-212, SUBSECTION F FOR THAT EMPLOYER'S BUSINESS  
32 LOCATION.

1           G. THE ATTORNEY GENERAL SHALL MAINTAIN COPIES OF COURT ORDERS THAT ARE  
2 RECEIVED PURSUANT TO SUBSECTION F OF THIS SECTION AND SHALL MAINTAIN A  
3 DATABASE OF THE EMPLOYERS AND BUSINESS LOCATIONS THAT HAVE A FIRST VIOLATION  
4 OF SUBSECTION A OF THIS SECTION AND MAKE THE COURT ORDERS AVAILABLE ON THE  
5 ATTORNEY GENERAL'S WEBSITE.

6           H. ON DETERMINING WHETHER AN EMPLOYEE IS AN UNAUTHORIZED ALIEN, THE  
7 COURT SHALL CONSIDER ONLY THE FEDERAL GOVERNMENT'S DETERMINATION PURSUANT TO  
8 8 UNITED STATES CODE SECTION 1373(c). THE FEDERAL GOVERNMENT'S DETERMINATION  
9 CREATES A REBUTTABLE PRESUMPTION OF THE EMPLOYEE'S LAWFUL STATUS. THE COURT  
10 MAY TAKE JUDICIAL NOTICE OF THE FEDERAL GOVERNMENT'S DETERMINATION AND MAY  
11 REQUEST THE FEDERAL GOVERNMENT TO PROVIDE AUTOMATED OR TESTIMONIAL  
12 VERIFICATION PURSUANT TO 8 UNITED STATES CODE SECTION 1373(c).

13           I. FOR THE PURPOSES OF THIS SECTION, PROOF OF VERIFYING THE EMPLOYMENT  
14 AUTHORIZATION OF AN EMPLOYEE THROUGH THE E-VERIFY PROGRAM CREATES A  
15 REBUTTABLE PRESUMPTION THAT AN EMPLOYER DID NOT INTENTIONALLY EMPLOY AN  
16 UNAUTHORIZED ALIEN.

17           J. FOR THE PURPOSES OF THIS SECTION, AN EMPLOYER THAT ESTABLISHES THAT  
18 IT HAS COMPLIED IN GOOD FAITH WITH THE REQUIREMENTS OF 8 UNITED STATES CODE  
19 SECTION 1324a(b) ESTABLISHES AN AFFIRMATIVE DEFENSE THAT THE EMPLOYER DID NOT  
20 INTENTIONALLY EMPLOY AN UNAUTHORIZED ALIEN. AN EMPLOYER IS CONSIDERED TO  
21 HAVE COMPLIED WITH THE REQUIREMENTS OF 8 UNITED STATES CODE SECTION 1324a(b),  
22 NOTWITHSTANDING AN ISOLATED, SPORADIC OR ACCIDENTAL TECHNICAL OR PROCEDURAL  
23 FAILURE TO MEET THE REQUIREMENTS, IF THERE IS A GOOD FAITH ATTEMPT TO COMPLY  
24 WITH THE REQUIREMENTS.

25           Sec. 6. Section 23-214, Arizona Revised Statutes, is amended to read:

26           23-214. Verification of employment eligibility; E-verify  
27                           program; economic development incentives; list of  
28                           registered employers

29           A. After December 31, 2007, every employer, after hiring an employee,  
30 shall verify the employment eligibility of the employee through the ~~basic~~  
31 ~~pilot~~ E-VERIFY program.

B. IN ADDITION TO ANY OTHER REQUIREMENT FOR AN EMPLOYER TO RECEIVE AN ECONOMIC DEVELOPMENT INCENTIVE FROM A GOVERNMENT ENTITY, THE EMPLOYER SHALL REGISTER WITH AND PARTICIPATE IN THE E-VERIFY PROGRAM. BEFORE RECEIVING THE ECONOMIC DEVELOPMENT INCENTIVE, THE EMPLOYER SHALL PROVIDE PROOF TO THE GOVERNMENT ENTITY THAT THE EMPLOYER IS REGISTERED WITH AND IS PARTICIPATING IN THE E-VERIFY PROGRAM. IF THE GOVERNMENT ENTITY DETERMINES THAT THE EMPLOYER IS NOT COMPLYING WITH THIS SUBSECTION, THE GOVERNMENT ENTITY SHALL NOTIFY THE EMPLOYER BY CERTIFIED MAIL OF THE GOVERNMENT ENTITY'S DETERMINATION OF NONCOMPLIANCE AND THE EMPLOYER'S RIGHT TO APPEAL THE DETERMINATION. ON A FINAL DETERMINATION OF NONCOMPLIANCE, THE EMPLOYER SHALL REPAY ALL MONIES RECEIVED AS AN ECONOMIC DEVELOPMENT INCENTIVE TO THE GOVERNMENT ENTITY WITHIN THIRTY DAYS OF THE FINAL DETERMINATION. FOR THE PURPOSES OF THIS SUBSECTION:

1. "ECONOMIC DEVELOPMENT INCENTIVE" MEANS ANY GRANT, LOAN OR PERFORMANCE-BASED INCENTIVE FROM ANY GOVERNMENT ENTITY THAT IS AWARDED AFTER SEPTEMBER 30, 2008. ECONOMIC DEVELOPMENT INCENTIVE DOES NOT INCLUDE ANY TAX PROVISION UNDER TITLE 42 OR 43.

2. "GOVERNMENT ENTITY" MEANS THIS STATE AND ANY POLITICAL SUBDIVISION OF THIS STATE THAT RECEIVES AND USES TAX REVENUES.

C. EVERY THREE MONTHS THE ATTORNEY GENERAL SHALL REQUEST FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY A LIST OF EMPLOYERS FROM THIS STATE THAT ARE REGISTERED WITH THE E-VERIFY PROGRAM. ON RECEIPT OF THE LIST OF EMPLOYERS, THE ATTORNEY GENERAL SHALL MAKE THE LIST AVAILABLE ON THE ATTORNEY GENERAL'S WEBSITE.

Sec. 7. Title 23, chapter 2, article 2, Arizona Revised Statutes, is amended by adding sections 23-215 and 23-216, to read:

23-215. Voluntary employer enhanced compliance program: program termination

A. THE ATTORNEY GENERAL SHALL ESTABLISH THE VOLUNTARY EMPLOYER ENHANCED COMPLIANCE PROGRAM. THE PROGRAM IS VOLUNTARY AND AN EMPLOYER IS NOT REQUIRED TO ENROLL IN THE PROGRAM.

1           B. AN EMPLOYER THAT IS ON PROBATION UNDER SECTION 23-212 OR 23-212.01  
2 MAY NOT ENROLL IN THE VOLUNTARY EMPLOYER ENHANCED COMPLIANCE PROGRAM. A  
3 COURT SHALL NOT CONSIDER NONENROLLMENT IN THE VOLUNTARY EMPLOYER ENHANCED  
4 COMPLIANCE PROGRAM AS A FACTOR WHEN DETERMINING WHETHER TO SUSPEND OR REVOKE  
5 A LICENSE UNDER SECTION 23-212 OR 23-212.01.

6           C. TO ENROLL IN THE VOLUNTARY EMPLOYER ENHANCED COMPLIANCE PROGRAM, AN  
7 EMPLOYER SHALL SUBMIT A SIGNED SWORN AFFIDAVIT TO THE ATTORNEY GENERAL. THE  
8 AFFIDAVIT SHALL STATE THAT THE EMPLOYER AGREES TO PERFORM ALL OF THE  
9 FOLLOWING ACTIONS IN GOOD FAITH:

10           1. AFTER HIRING AN EMPLOYEE, THE EMPLOYER SHALL VERIFY THE EMPLOYMENT  
11 ELIGIBILITY OF THE EMPLOYEE THROUGH THE E-VERIFY PROGRAM.

12           2. TO ENSURE THE ACCURACY OF REPORTING WAGES TO THE SOCIAL SECURITY  
13 ADMINISTRATION, THE EMPLOYER SHALL VERIFY THE ACCURACY OF SOCIAL SECURITY  
14 NUMBERS THROUGH THE SOCIAL SECURITY NUMBER VERIFICATION SERVICE FOR ANY  
15 EMPLOYEE WHO IS NOT VERIFIED THROUGH THE E-VERIFY PROGRAM. WITHIN THIRTY  
16 DAYS AFTER ENROLLING IN THE VOLUNTARY EMPLOYER ENHANCED COMPLIANCE PROGRAM,  
17 THE EMPLOYER SHALL SUBMIT THE NECESSARY INFORMATION TO THE SOCIAL SECURITY  
18 NUMBER VERIFICATION SERVICE, INCLUDING THE FULL NAME, THE SOCIAL SECURITY  
19 NUMBER, THE DATE OF BIRTH AND THE GENDER OF EACH EMPLOYEE. ON RECEIPT OF A  
20 FAILED VERIFICATION RESULT, THE EMPLOYER SHALL NOTIFY THE EMPLOYEE OF THE  
21 DATE ON WHICH THE EMPLOYER RECEIVED THE FAILED RESULT AND INSTRUCT THE  
22 EMPLOYEE TO RESOLVE THE DISCREPANCY WITH THE SOCIAL SECURITY ADMINISTRATION  
23 WITHIN NINETY DAYS AFTER THAT DATE. THE EMPLOYER AND EMPLOYEE SHALL RESOLVE  
24 ANY FAILED RESULT WITHIN NINETY DAYS AFTER THE DATE ON WHICH THE EMPLOYER  
25 RECEIVED THE FAILED RESULT. IF THE FAILED RESULT IS NOT RESOLVED WITHIN THE  
26 NINETY-DAY PERIOD BUT THE EMPLOYER AND EMPLOYEE ARE CONTINUING TO ACTIVELY  
27 AND CONSISTENTLY WORK TOWARD RESOLVING THE FAILED RESULT WITH THE SOCIAL  
28 SECURITY ADMINISTRATION, THE NINETY-DAY PERIOD DOES NOT APPLY AS LONG AS THE  
29 EMPLOYER AND EMPLOYEE HAVE DOCUMENTED PROOF OF THESE ONGOING EFFORTS TO  
30 RESOLVE THE FAILED RESULT IN GOOD FAITH AND HAVE PROVIDED THE DOCUMENTED  
31 PROOF TO THE ATTORNEY GENERAL. THE EMPLOYER SHALL VERIFY THE ACCURACY OF THE

1 SOCIAL SECURITY NUMBERS AND RESOLVE ANY FAILED VERIFICATION RESULTS IN A  
2 CONSISTENT MANNER FOR ALL EMPLOYEES.

3 3. IN RESPONSE TO A WRITTEN REQUEST BY THE ATTORNEY GENERAL OR COUNTY  
4 ATTORNEY STATING THE NAME OF AN EMPLOYEE FOR WHOM A COMPLAINT HAS BEEN  
5 RECEIVED UNDER SECTION 23-212 OR 23-212.01, THE EMPLOYER SHALL PROVIDE THE  
6 ATTORNEY GENERAL OR COUNTY ATTORNEY THE DOCUMENTS INDICATING THAT THE  
7 EMPLOYEE WAS VERIFIED THROUGH THE E-VERIFY PROGRAM OR THAT THE ACCURACY OF  
8 THE EMPLOYEE'S WAGE REPORT WAS VERIFIED THROUGH THE SOCIAL SECURITY NUMBER  
9 VERIFICATION SERVICE UNDER THIS SECTION.

10 D. AN EMPLOYER THAT IS ENROLLED IN THE VOLUNTARY EMPLOYER ENHANCED  
11 COMPLIANCE PROGRAM SHALL NOT BE IN VIOLATION OF SECTION 23-212, SUBSECTION A  
12 OR SECTION 23-212.01, SUBSECTION A REGARDING AN EMPLOYEE NAMED IN A COMPLAINT  
13 UNDER SECTION 23-212 OR 23-212.01 IF THE EMPLOYER HAS COMPLETED BOTH OF THE  
14 FOLLOWING:

15 1. IN GOOD FAITH VERIFIED THE EMPLOYMENT ELIGIBILITY OF THE EMPLOYEE  
16 NAMED IN THE COMPLAINT THROUGH THE E-VERIFY PROGRAM OR IN GOOD FAITH VERIFIED  
17 THE ACCURACY OF THE SOCIAL SECURITY NUMBER OF THE EMPLOYEE NAMED IN THE  
18 COMPLAINT THROUGH THE SOCIAL SECURITY NUMBER VERIFICATION SYSTEM AS REQUIRED  
19 BY SUBSECTION C, PARAGRAPHS 1 AND 2 OF THIS SECTION.

20 2. PROVIDED THE ATTORNEY GENERAL OR COUNTY ATTORNEY WITH THE  
21 DOCUMENTS, AS REQUIRED BY SUBSECTION C, PARAGRAPH 3 OF THIS SECTION,  
22 INDICATING THAT THE EMPLOYER VERIFIED THE EMPLOYEE NAMED IN THE COMPLAINT.

23 E. THE ATTORNEY GENERAL SHALL MAINTAIN A LIST OF EMPLOYERS ENROLLED IN  
24 THE VOLUNTARY EMPLOYER ENHANCED COMPLIANCE PROGRAM AND MAKE THE LIST  
25 AVAILABLE ON THE ATTORNEY GENERAL'S WEBSITE.

26 F. THE ATTORNEY GENERAL SHALL DEVELOP A FORM OF RECOGNITION THAT AN  
27 EMPLOYER MAY DISPLAY TO THE GENERAL PUBLIC FOR ENROLLING IN THE VOLUNTARY  
28 EMPLOYER ENHANCED COMPLIANCE PROGRAM.

29 G. IF AN EMPLOYER DOES NOT FULLY COMPLY WITH THIS SECTION, THE  
30 ATTORNEY GENERAL SHALL TERMINATE THE EMPLOYER'S ENROLLMENT IN THE VOLUNTARY  
31 EMPLOYER ENHANCED COMPLIANCE PROGRAM. AT ANY TIME, AN EMPLOYER MAY  
32 VOLUNTARILY WITHDRAW FROM THE VOLUNTARY EMPLOYER ENHANCED COMPLIANCE PROGRAM



1 BY NOTIFYING THE ATTORNEY GENERAL. BEGINNING ON THE DATE OF TERMINATION OR  
2 WITHDRAWAL, SUBSECTION D OF THIS SECTION NO LONGER APPLIES TO THE EMPLOYER  
3 AND THE EMPLOYER SHALL IMMEDIATELY REMOVE ANY FORM OF RECOGNITION FROM PUBLIC  
4 DISPLAY THAT IS AUTHORIZED UNDER THIS SECTION.

5 H. THE PROGRAM ESTABLISHED BY THIS SECTION ENDS ON JULY 1, 2018  
6 PURSUANT TO SECTION 41-3102.

7 23-216. Independent contractors; applicability

8 FOR THE PURPOSES OF THIS ARTICLE, INDEPENDENT CONTRACTOR STATUS APPLIES  
9 TO AN INDIVIDUAL WHO PERFORMS SERVICES AND IS NOT AN EMPLOYEE PURSUANT TO  
10 SECTION 3508 OF THE INTERNAL REVENUE CODE.

11 Sec. 8. Title 23, chapter 2, article 7, Arizona Revised Statutes, is  
12 amended by adding section 23-361.01, to read:

13 23-361.01. Employer requirements; cash payments; unlawful  
14 practices; civil penalty

15 A. AN EMPLOYER THAT HAS TWO OR MORE EMPLOYEES AND PAYS HOURLY WAGES OR  
16 SALARY BY CASH TO ANY EMPLOYEE SHALL COMPLY WITH ALL OF THE FOLLOWING:

- 17 1. THE INCOME TAX WITHHOLDING LAWS PRESCRIBED IN TITLE 43, CHAPTER 4.  
18 2. THE EMPLOYER REPORTING LAWS PRESCRIBED IN SECTION 23-722.01.  
19 3. THE EMPLOYMENT SECURITY LAWS PRESCRIBED IN CHAPTER 4 OF THIS TITLE.  
20 4. THE WORKERS' COMPENSATION LAWS PRESCRIBED IN CHAPTER 6 OF THIS  
21 TITLE.

22 B. FOR A VIOLATION OF SUBSECTION A OF THIS SECTION, THE ATTORNEY  
23 GENERAL MAY BRING AN ACTION IN SUPERIOR COURT AGAINST AN EMPLOYER. ON A  
24 FINDING OF A VIOLATION OF SUBSECTION A OF THIS SECTION, THE COURT SHALL ORDER  
25 THE EMPLOYER TO PAY A CIVIL PENALTY THAT IS EQUAL TO TREBLE THE AMOUNT OF ALL  
26 WITHHOLDINGS, PAYMENTS, CONTRIBUTIONS OR PREMIUMS THAT THE EMPLOYER FAILED TO  
27 REMIT AS PRESCRIBED BY SUBSECTION A OF THIS SECTION OR FIVE THOUSAND DOLLARS  
28 FOR EACH EMPLOYEE FOR WHOM A VIOLATION WAS COMMITTED, WHICHEVER IS GREATER.

29 C. THE COURT SHALL TRANSMIT THE MONIES COLLECTED PURSUANT TO  
30 SUBSECTION B OF THIS SECTION TO THE STATE TREASURER, AND THE STATE TREASURER  
31 SHALL DEPOSIT THE MONIES IN THE STATE GENERAL FUND. MONIES DEPOSITED IN THE  
32 STATE GENERAL FUND PURSUANT TO THIS SUBSECTION SHALL BE EQUALLY APPROPRIATED

1 TO THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF HEALTH SERVICES FOR THE  
2 PURPOSES OF OFFSETTING INCREASED COSTS TO THIS STATE BY UNAUTHORIZED ALIENS.

3 D. THE CIVIL PENALTY UNDER THIS SECTION IS IN ADDITION TO ANY OTHER  
4 PENALTIES THAT MAY BE IMPOSED BY LAW.

5 Sec. 9. Title 41, chapter 6, Arizona Revised Statutes, is amended by  
6 adding article 7.2, to read:

7 ARTICLE 7.2. LICENSING ELIGIBILITY

8 41-1080. Licensing eligibility; authorized presence;  
9 documentation; applicability; definitions

10 A. AFTER SEPTEMBER 30, 2008, AN AGENCY OR POLITICAL SUBDIVISION OF  
11 THIS STATE SHALL NOT ISSUE A LICENSE TO AN INDIVIDUAL IF THE INDIVIDUAL DOES  
12 NOT PRESENT ANY OF THE FOLLOWING DOCUMENTS TO THE AGENCY OR POLITICAL  
13 SUBDIVISION INDICATING THAT THE INDIVIDUAL'S PRESENCE IN THE UNITED STATES IS  
14 AUTHORIZED UNDER FEDERAL LAW:

15 1. AN ARIZONA DRIVER LICENSE ISSUED AFTER 1996 OR AN ARIZONA  
16 NONOPERATING IDENTIFICATION LICENSE.

17 2. A DRIVER LICENSE ISSUED BY A STATE THAT VERIFIES LAWFUL PRESENCE IN  
18 THE UNITED STATES.

19 3. A BIRTH CERTIFICATE OR DELAYED BIRTH CERTIFICATE ISSUED IN ANY  
20 STATE, TERRITORY OR POSSESSION OF THE UNITED STATES.

21 4. A UNITED STATES CERTIFICATE OF BIRTH ABROAD.

22 5. A UNITED STATES PASSPORT.

23 6. A FOREIGN PASSPORT WITH A UNITED STATES VISA.

24 7. AN I-94 FORM WITH A PHOTOGRAPH.

25 8. A UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES EMPLOYMENT  
26 AUTHORIZATION DOCUMENT OR REFUGEE TRAVEL DOCUMENT.

27 9. A UNITED STATES CERTIFICATE OF NATURALIZATION.

28 10. A UNITED STATES CERTIFICATE OF CITIZENSHIP.

29 11. A TRIBAL CERTIFICATE OF INDIAN BLOOD.

30 12. A TRIBAL OR BUREAU OF INDIAN AFFAIRS AFFIDAVIT OF BIRTH.

1 B. THIS SECTION DOES NOT APPLY TO AN INDIVIDUAL, IF ALL OF THE  
2 FOLLOWING APPLY:

3 1. THE INDIVIDUAL IS A CITIZEN OF A FOREIGN COUNTRY OR, IF AT THE TIME  
4 OF APPLICATION, THE INDIVIDUAL RESIDES IN A FOREIGN COUNTRY.

5 2. THE BENEFITS THAT ARE RELATED TO THE LICENSE DO NOT REQUIRE THE  
6 INDIVIDUAL TO BE PRESENT IN THE UNITED STATES IN ORDER TO RECEIVE THOSE  
7 BENEFITS.

8 C. FOR THE PURPOSES OF THIS SECTION:

9 1. "AGENCY" MEANS ANY AGENCY, DEPARTMENT, BOARD OR COMMISSION OF THIS  
10 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE THAT ISSUES A LICENSE FOR  
11 THE PURPOSES OF OPERATING A BUSINESS IN THIS STATE.

12 2. "LICENSE" MEANS ANY AGENCY PERMIT, CERTIFICATE, APPROVAL,  
13 REGISTRATION, CHARTER OR SIMILAR FORM OF AUTHORIZATION THAT IS REQUIRED BY  
14 LAW AND THAT IS ISSUED BY ANY AGENCY FOR THE PURPOSES OF OPERATING A BUSINESS  
15 IN THIS STATE.

16 Sec. 10. Title 41, Arizona Revised Statutes, is amended by adding  
17 chapter 44, to read:

18 CHAPTER 44

19 AUTHORIZED PRESENCE REQUIREMENTS

20 ARTICLE 1. GOVERNMENT PROCUREMENT

21 41-4401. Government procurement; E-verify requirement;  
22 definitions

23 A. AFTER SEPTEMBER 30, 2008, A GOVERNMENT ENTITY SHALL NOT AWARD A  
24 CONTRACT TO ANY CONTRACTOR OR SUBCONTRACTOR THAT FAILS TO COMPLY WITH SECTION  
25 23-214, SUBSECTION A. EVERY GOVERNMENT ENTITY SHALL ENSURE THAT EVERY  
26 GOVERNMENT ENTITY CONTRACTOR AND SUBCONTRACTOR COMPLIES WITH THE FEDERAL  
27 IMMIGRATION LAWS AND REGULATIONS THAT RELATE TO THEIR EMPLOYEES AND SECTION  
28 23-214, SUBSECTION A. EVERY GOVERNMENT ENTITY SHALL REQUIRE THAT EVERY  
29 GOVERNMENT ENTITY CONTRACT INCLUDE ALL OF THE FOLLOWING PROVISIONS:

30 1. THAT EACH CONTRACTOR AND SUBCONTRACTOR WARRANTS THEIR COMPLIANCE  
31 WITH ALL FEDERAL IMMIGRATION LAWS AND REGULATIONS THAT RELATE TO THEIR  
32 EMPLOYEES AND THEIR COMPLIANCE WITH SECTION 23-214, SUBSECTION A.

1           2. THAT A BREACH OF A WARRANTY UNDER PARAGRAPH 1 SHALL BE DEEMED A  
2 MATERIAL BREACH OF THE CONTRACT THAT IS SUBJECT TO PENALTIES UP TO AND  
3 INCLUDING TERMINATION OF THE CONTRACT.

4           3. THAT THE GOVERNMENT ENTITY RETAINS THE LEGAL RIGHT TO INSPECT THE  
5 PAPERS OF ANY CONTRACTOR OR SUBCONTRACTOR EMPLOYEE WHO WORKS ON THE CONTRACT  
6 TO ENSURE THAT THE CONTRACTOR OR SUBCONTRACTOR IS COMPLYING WITH THE WARRANTY  
7 UNDER PARAGRAPH 1.

8           B. EVERY GOVERNMENT ENTITY THAT ENTERS INTO A CONTRACT SHALL ESTABLISH  
9 PROCEDURES TO CONDUCT RANDOM VERIFICATION OF THE EMPLOYMENT RECORDS OF  
10 GOVERNMENT ENTITY CONTRACTORS AND SUBCONTRACTORS TO ENSURE THAT THE  
11 CONTRACTORS AND SUBCONTRACTORS ARE COMPLYING WITH THEIR WARRANTIES.

12           C. A GOVERNMENT ENTITY SHALL NOT DEEM A GOVERNMENT ENTITY CONTRACTOR  
13 OR SUBCONTRACTOR IN MATERIAL BREACH OF A CONTRACT IF THE CONTRACTOR OR  
14 SUBCONTRACTOR ESTABLISHES THAT IT HAS COMPLIED WITH THE EMPLOYMENT  
15 VERIFICATION PROVISIONS PRESCRIBED BY SECTIONS 274A AND 274B OF THE FEDERAL  
16 IMMIGRATION AND NATIONALITY ACT AND THE E-VERIFY REQUIREMENTS PRESCRIBED BY  
17 SECTION 23-214, SUBSECTION A

18           D. FOR THE PURPOSES OF THIS SECTION:

19           1. "CONTRACT" MEANS ALL TYPES OF GOVERNMENT ENTITY AGREEMENTS,  
20 REGARDLESS OF WHAT THEY MAY BE CALLED, FOR THE PROCUREMENT OF SERVICES IN  
21 THIS STATE.

22           2. "CONTRACTOR" MEANS ANY PERSON WHO HAS A CONTRACT WITH A GOVERNMENT  
23 ENTITY.

24           3. "E-VERIFY PROGRAM" MEANS THE EMPLOYMENT VERIFICATION PILOT PROGRAM  
25 AS JOINTLY ADMINISTERED BY THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY  
26 AND THE SOCIAL SECURITY ADMINISTRATION OR ANY OF ITS SUCCESSOR PROGRAMS.

27           4. "GOVERNMENT ENTITY" MEANS THIS STATE AND ANY POLITICAL SUBDIVISION  
28 OF THIS STATE THAT RECEIVES AND USES TAX REVENUES.

29           5. "SERVICES" MEANS THE FURNISHING OF LABOR, TIME OR EFFORT IN THIS  
30 STATE BY A CONTRACTOR OR SUBCONTRACTOR. SERVICES INCLUDE CONSTRUCTION OR  
31 MAINTENANCE OF ANY STRUCTURE, BUILDING OR TRANSPORTATION FACILITY OR  
32 IMPROVEMENT OF REAL PROPERTY.

1           6. "SUBCONTRACTOR" MEANS A PERSON WHO CONTRACTS TO PERFORM WORK OR  
2           RENDER SERVICE TO A CONTRACTOR OR TO ANOTHER SUBCONTRACTOR AS A PART OF A  
3           CONTRACT WITH A GOVERNMENT ENTITY.

4           Sec. 11. Severability

5           If any provision of this act or its application to any person or  
6           circumstance is held invalid, the invalidity does not affect other provisions  
7           or applications of this act that can be given effect without the invalid  
8           provision or application, and to this end the provisions of this act are  
9           severable.

10          Sec. 12. Emergency

11          This act is an emergency measure that is necessary to preserve the  
12          public peace, health or safety and is operative immediately as provided by  
13          law."

14   Amend title to conform

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RUSSELL K. PEARCE

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